

### **Remarks**

In the Office action of February 8, 2005, claims 1-44, 56-61, 64-67, 70, 71, 74-76, 81-96, 101-103, 106-110 and 112-122 were pending. Claims 64 and 65 have been cancelled, and claims 101, 106-108, and 112 have been amended. Thus, claims 1-44, 56-61, 66, 67, 70, 71, 74-76, 81-96, 101-103, 106-110 and 112-122 are currently pending. Applicant notes with appreciation the allowance of claims 1-44, 56-61, 66, 67, 70, 71, 75, 76, 81-94, 96, 110 and 114-120.

Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

#### **Rejection under 35 U.S.C. §102**

Claim 74 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,533,817 to Norton et al. ("Norton"). This rejection is respectfully traversed because claim 74 recites, *inter alia*, "at least one sealable opening for the introduction of lubricant into the implant after the implant has been assembled." Norton does not appear to teach a sealable opening. Rather, Norton teaches away from the use of a sealable opening by disclosing open ports and channels (FIG. 1) wherein, "the channels 46 are preferably formed to be open-ended, again to facilitate fluid interaction" (col. 9, lines 5-7). Thus, for at least this reason, claim 74 is allowable over the Norton reference and is therefore in condition for allowance.

Claim 95 stands rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002/0183848 to Ray et al. ("Ray"). This rejection is respectfully traversed because claim 95 recites, *inter alia*, "an encapsulated central body that is impregnated with a surface lubricity increasing material." Ray does not appear to teach impregnation with a surface lubricity increasing material, but rather teaches away from increasing the surface lubricity of the central body by teaching that the "inner core is *adherent to and connected to* said outer jacket" (emphasis added) (page 11, cl. 22). Thus, for at least this reason, claim 95 is allowable over the Ray reference and is therefore in condition for allowance.

Independent claims 101, 106, and 112 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,545,229 to Parsons et al. ("Parsons"). Claims 101, 106, and 112 as amended recite, *inter alia*, a central body "articulable between two shells." The cited text of Parsons does not appear to teach a central body articulable between two shells, but rather teaches, "the endplates may be directly molded onto the core-outer ring assembly" (col. 8, lines 13-15) or "affixed, one to each end, to the outer ring/ central core" (col. 4, lines 14-16). Thus the reference does not support the claims and should be withdrawn. Claims 102, 121, and 122 depend from and further limit claim 101, and claim 113 depends from and further limits claim 112. These dependent claims are therefore also in condition for allowance.

Claim 103 also stands rejected under 35 U.S.C §102(b) as anticipated by Parsons. Claim 103 recites, "a polymer coating thereon, wherein the coating increases the surface lubricity of the central body." The cited text of Parsons does not appear to teach a coating that increases the surface lubricity of the central body. Rather, Parsons teaches away from using a lubricious central body by stating that the outer ring/ central core becomes "affixed" to the endplates (col. 4, lines 14-16). Thus, for at least this reason, claim 103 is allowable over the Parsons reference.

### **Rejection under 35 U.S.C. § 103**

Claims 107 and 108 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Parsons in combination with ordinary skill in the art. Claims 107 and 108, as amended, both recite, "a central body positioned and articulable between two shells." The cited text of Parsons does not appear to teach a central body articulable between two shells but rather teaches, "the endplates may be directly molded onto the core-outer ring assembly" (col. 8, lines 13-15) or "affixed, one to each end, to the outer ring/ central core" (col. 4, lines 14-16). Thus Parsons does not support the rejection of claims 107 and 108 and should be withdrawn. Claim 109 depends from and further limits claim 108 and therefore is also in condition for allowance.

**Conclusion**

As a result of the foregoing, it is respectfully asserted that pending claims 1-44, 56-61, 66, 67, 70, 71, 74-76, 81-96, 101-103, 106-110 and 112-122 are in condition for allowance. Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to contact the undersigned at the below listed telephone number.

Respectfully submitted,



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